IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.490 OF 2005

Smt. Monali Haresh Awatramani ...Petitioner.

V/s

Shri Haresh Nanikram
Awatramani & Anr. ...Respondents.

Mr. B.D. Joshi with Ms. Yasmin Karanjia, advocate for the petitioner.

Mr. G.H. Keluskar, advocate for respondent Nos. 1 and 2.

Mr. A.S. Shitole, APP for the State.

CORAM: V.M.KANADE,J.
DATE: 3rd March, 2005

P.C.

1. Heard the learned counsel for the parties.

2. This petition is filed by the original complainant who has lodged a complaint against the respondent - husband and her mother-in-law under section 498-A of the Indian Penal Code. It is averred in the Petition that after the complaint was lodged, parties have filed petition for divorce and the divorce by mutual consent has been obtained. It is submitted that the petitioner, therefore, does not wish to prosecute the respondent. Petitioner is present in court along with her Counsel. Respondent No.1 is also present in Court.

3. In the consent terms which are filed in the family court, it is specifically mentioned that the original documents executed between the parties are kept with the advocate for petitioner Mr. A.W. Pereira until the respondent withdraws or gets quashed the criminal prosecution filed by her under section 498(A) of the IPC.

4. It is submitted by the learned Counsel for the petitioner that the undertaking given by the petitioner to the family court has been accepted and as long as this complaint is not withdrawn, she would not be entitled to get benefit of the consent terms which are filed in the family court.

5. Though offence under section 498(A) is not compoundable under the provisions of section 320 of the Criminal Procedure Code yet, this Court can exercise its inherent powers under section 482 of the Criminal Procedure Code as the said powers are not curtailed by section 320 of the Criminal Procedure Code. I am satisfied that both the parties have settled their dispute and the petitioner does not wish to prosecute the respondent.

6. Accordingly, Petition is allowed in terms of prayer clause (a).

7. Issuance of certified copy, expedited.

V.M. KANADE, J.